

**Relevant Interim Criteria for Consideration of  
Application for NTEH/Small House in New Territories**  
**(promulgated on 7.9.2007)**

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) if an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development\*);

- (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
- (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.

\*i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

**Previous S.16 Applications**

**Approved Application**

Application No.	Uses/ Development	Date of Consideration	Approval Conditions
A/NE-LYT/437	Proposed 11 Houses (New Territories Exempted Houses (NTEHs) - Small Houses)	8.7.2011	A1 - A4

**Approval Conditions:**

- A1        The submission and implementation of drainage proposals
- A2        The provision of fire-fighting access, water supplies for fire-fighting and fire service installations
- A3        The submission and implementation of tree preservation and landscape proposals
- A4        The commencement clause

**Rejected Application**

Application No.	Uses/ Development	Date of Consideration	Rejection Reasons
A/NE-LYT/424	Proposed 11 Houses (New Territories Exempted Houses)	16.7.2010	R1 - R3

**Rejection Reasons**

- R1        The proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone in the Lung Yeuk Tau and Kwan Tei South area which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention.
- R2        The application site fell within the village ‘environs’ (‘VE’) of Ma Mei Ha, Ma Mei Ha Leng Tsui and Leng Pei Tsuen and land within ‘VE’ or “Village Type Development” zone for recognized New Territories villages should be primarily reserved for Small House development by indigenous villagers.
- R3        The approval of the application would set an undesirable precedent for similar applications within “AGR” zone in future. The cumulative impact of approving such application would result in further loss of agricultural land in the area.

**Similar S.16 Applications for Proposed House (New Territories Exempted House - Small House)  
within/partly within the “Agriculture” zone in the vicinity of the site  
in the Lung Yeuk Tau and Kwan Tei Area**

**Approved Applications**

<b>Application No.</b>	<b>Uses/ Development</b>	<b>Date of Consideration</b>	<b>Approval Conditions</b>
A/NE-LYT/257* <sup>1</sup>	Proposed 5 New Territories Exempted Houses (NTEHs) (Small Houses)	25.4.2003	A1, A2 & A8
A/NE-LYT/275* <sup>1</sup>	Proposed New Territories Exempted House (NTEH) (Small House)	28.5.2004	A1, A2 & A8
A/NE-LYT/327* <sup>2</sup>	Proposed House (New Territories Exempted House) (NTEH) (Small House)	28.4.2006	A2, A3, A4 & A8
A/NE-LYT/342	Proposed House (New Territories Exempted House (NTEH) — Small House)	3.11.2006	A2, A5 & A8
A/NE-LYT/343	Proposed House (New Territories Exempted House (NTEH) — Small House)	3.11.2006	A2, A5 & A8
A/NE-LYT/373	Proposed House (New Territories Exempted House - Small House)	9.5.2008	A5, A6, A7 & A8
A/NE-LYT/374	Proposed House (New Territories Exempted House - Small House)	23.5.2008	A5, A6, A7 & A8
A/NE-LYT/376	Proposed House (New Territories Exempted House (NTEH) — Small House)	6.6.2008	A5, A6, A7 & A8
A/NE-LYT/378	Proposed 2 Houses (New Territories Exempted Houses (NTEHs) - Small Houses)	20.6.2008	A2, A5, A6 & A8
A/NE-LYT/379	Proposed 5 Houses (New Territories Exempted Houses - Small Houses)	1.8.2008	A2, A5, A6 & A8
A/NE-LYT/391	Proposed 5 Houses (New Territories Exempted Houses - Small Houses)	17.4.2009	A2, A5, A6 & A8
A/NE-LYT/404* <sup>3</sup>	Proposed 5 Houses (New Territories Exempted Houses - Small Houses)	23.10.2009	A2, A5, A6 & A8
A/NE-LYT/451	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A2, A5, A8 & A10

A/NE-LYT/452	Proposed House (New Territories Exempted House (NTEH) - Small House)	6.1.2012	A2, A5, A8 & A10
A/NE-LYT/463	Proposed House (New Territories Exempted House - Small House)	15.6.2012	A2, A5, A8 & A10
A/NE-LYT/464	Proposed House (New Territories Exempted House - Small House)	15.6.2012	A2, A5, A8 & A10
A/NE-LYT/472 <sup>*4, *5</sup>	Proposed 3 Houses (New Territories Exempted Houses - Small Houses)	15.6.2012	A2, A5, A8 & A10
A/NE-LYT/489 <sup>*6</sup>	Proposed House (New Territories Exempted House - Small House)	7.9.2012	A2, A5, A8 & A10
A/NE-LYT/497	Proposed House (New Territories Exempted House - Small House)	8.2.2013	A5, A7 & A8
A/NE-LYT/518	Proposed House (New Territories Exempted House - Small House)	22.11.2013	A2, A5 & A8
A/NE-LYT/519	Proposed House (New Territories Exempted House - Small House)	22.11.2013	A2, A5 & A8
A/NE-LYT/520	Proposed House (New Territories Exempted House - Small House)	22.11.2013	A2, A5 & A8
A/NE-LYT/529 <sup>*7</sup>	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A5, A7 & A8
A/NE-LYT/530 <sup>*8</sup>	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8
A/NE-LYT/531 <sup>*9</sup>	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A5, A7 & A8
A/NE-LYT/532 <sup>*10</sup>	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8
A/NE-LYT/533 <sup>*11</sup>	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8
A/NE-LYT/534 <sup>*12</sup>	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8
A/NE-LYT/535 <sup>*13</sup>	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A2, A5 & A8

A/NE-LYT/536 <sup>*14</sup>	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A5, A7 & A8
A/NE-LYT/537 <sup>*15</sup>	Proposed House (New Territories Exempted House - Small House)	4.4.2014	A5, A7 & A8
A/NE-LYT/538	Proposed House (New Territories Exempted House - Small House)	25.4.2014	A2, A5, A8 & A9
A/NE-LYT/539 <sup>*16</sup>	Proposed House (New Territories Exempted House - Small House)	25.4.2014	A2, A5, A8 & A9
A/NE-LYT/540 <sup>*17</sup>	Proposed House (New Territories Exempted House - Small House)	9.5.2014	A2, A5, A8 & A9
A/NE-LYT/547 <sup>*3</sup>	Proposed 5 Houses (New Territories Exempted Houses - Small Houses)	26.9.2014	A2, A5, A8 & A9
A/NE-LYT/550 <sup>*2</sup>	Proposed House (New Territories Exempted House - Small House)	17.10.2014	A2, A5, A8 & A9
A/NE-LYT/558	Proposed House (New Territories Exempted House - Small House)	16.1.2015	A5, A7, A8 & A9
A/NE-LYT/561 <sup>*4</sup>	Proposed 4 Houses (New Territories Exempted Houses - Small Houses)	8.5.2015	A2, A5, A8 & A9
A/NE-LYT/579	Proposed House (New Territories Exempted House - Small House)	6.11.2015	A2, A5 & A8
A/NE-LYT/580	Proposed House (New Territories Exempted House - Small House)	6.11.2015	A2, A5, A8 & A9
A/NE-LYT/581	Proposed House (New Territories Exempted House - Small House)	6.11.2015	A2, A5, A8 & A9
A/NE-LYT/584	Proposed House (New Territories Exempted House - Small House)	22.1.2016	A5, A7, A8 & A9
A/NE-LYT/585	Proposed House (New Territories Exempted House - Small House)	22.1.2016	A2, A5, A8 & A9
A/NE-LYT/589	Proposed House (New Territories Exempted House - Small House)	5.2.2016	A2, A5, A8 & A9
A/NE-LYT/597 <sup>*5</sup>	Proposed House (New Territories Exempted House - Small House)	15.7.2016	A2, A5, A8 & A9
A/NE-LYT/635 <sup>*6</sup>	Proposed House (New Territories Exempted House - Small House)	22.9.2017	A2, A5, A8 & A9

A/NE-LYT/648	Proposed House (New Territories Exempted House - Small House)	18.5.2018	A2, A5, A8 & A9
A/NE-LYT/649	Proposed House (New Territories Exempted House - Small House)	18.5.2018	A2, A5, A8 & A9
A/NE-LYT/653 <sup>*7</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5 & A8
A/NE-LYT/654 <sup>*8</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5 & A8
A/NE-LYT/655 <sup>*9</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5 & A8
A/NE-LYT/656 <sup>*10</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5 & A8
A/NE-LYT/657 <sup>*11</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5 & A8
A/NE-LYT/658 <sup>*12</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5 & A8
A/NE-LYT/659 <sup>*13</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5, A8 & A9
A/NE-LYT/660 <sup>*14</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5, A8 & A9
A/NE-LYT/661 <sup>*15</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5, A8 & A9
A/NE-LYT/663 <sup>*16</sup>	Proposed House (New Territories Exempted House - Small House)	15.6.2018	A2, A5, A8 & A9
A/NE-LYT/673 <sup>*17</sup>	Proposed House (New Territories Exempted House - Small House)	5.10.2018	A2, A5, A8 & A9
A/NE-LYT/675	Proposed House (New Territories Exempted House - Small House)	19.10.2018	A5, A8 & A9
A/NE-LYT/676	Proposed House (New Territories Exempted House - Small House)	19.10.2018	A2, A5, A8 & A9

Remarks

\*1: The application no. A/NE-LYT/257 includes the site of application no. A/NE-LYT/275.

\*2: The application nos. A/NE-LYT/327 and A/NE-LYT/550 involve the same site

- \*3: The application nos. A/NE-LYT/404 and A/NE-LYT/547 involve the same site
- \*4: The application nos. A/NE-LYT/472 and A/NE-LYT/561 are at the same location but with slightly different areas
- \*5: The application no. A/NE-LYT/597 involves part of the site of the application no. A/NE-LYT/472
- \*6: The application nos. A/NE-LYT/489 and A/NE-LYT/635 involve the same site
- \*7: The application nos. A/NE-LYT/529 and A/NE-LYT/653 involve the same site
- \*8: The application nos. A/NE-LYT/530 and A/NE-LYT/654 involve the same site
- \*9: The application nos. A/NE-LYT/531 and A/NE-LYT/655 involve the same site
- \*10: The application nos. A/NE-LYT/532 and A/NE-LYT/656 involve the same site
- \*11: The application nos. A/NE-LYT/533 and A/NE-LYT/657 involve the same site
- \*12: The application nos. A/NE-LYT/534 and A/NE-LYT/658 involve the same site
- \*13: The application nos. A/NE-LYT/535 and A/NE-LYT/659 involve the same site
- \*14: The application nos. A/NE-LYT/536 and A/NE-LYT/660 involve the same site
- \*15: The application nos. A/NE-LYT/537 and A/NE-LYT/661 involve the same site
- \*16: The application nos. A/NE-LYT/539 and A/NE-LYT/663 involve the same site
- \*17: The application nos. A/NE-LYT/540 and A/NE-LYT/673 involve the same site

**Approval Conditions:**

- A5 The provision of drainage facilities
- A6 The submission and implementation of landscaping proposals
- A7 The provision of street fire hydrant within 100m from the site
- A8 The design and provision of drainage facilities
- A9 The submission and implementation of drainage proposals
- A10 The design and provision of firefighting access, water supplies for fire fighting and fire service installations
- A11 The submission and implementation of tree preservation and landscaping proposals
- A12 The commencement clause



- A13 The provision of septic tank
- A14 The provision of fire-fighting access, water supplies for fire-fighting and fire service installations

**Rejected Application**

<b>Application No.</b>	<b>Uses/ Development</b>	<b>Date of Consideration</b>	<b>Rejection Reasons</b>
A/NE-LYT/267	New Territories Exempted House (NTEH) (Small House)	19.9.2003	R1, R2 & R3

**Rejection Reasons:**

- A1 The proposed Small House development did not comply with the interim criteria for assessing planning application for New Territories Exempted House/Small House development as the application site was outside both the village ‘environs’ and “Village Type Development” zone of surrounding villages
- A2 The use under application was not in line with the planning intention of the “Agriculture” zone which was to retain and safeguard good agricultural land for agricultural purposes, to retain fallow arable land with good potential for rehabilitation and to encourage the re-cultivation of good arable land
- A3 The approval of the application would set an undesirable precedent for other similar applications

## **Detailed Comments from Relevant Government Departments**

### **1. Land Administration**

Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site falls within the 'VE' of Ma Mei Ha Leng Tsui and Leng Pei Tsuen;
- (b) the 9 applicants of the proposed Small Houses on Lots 1749 S.L, S.M, S.N, S.P, S.Q, S.R, S.T, S.U and S.V claimed themselves to be indigenous villagers of Fanling Village of Fanling Heung while the 2 applicants of the proposed Small Houses on Lots 1749 S.O and S.W claimed themselves to be indigenous villagers of Leng Pei Tsuen of Fanling Heung. Their eligibilities for Small House grants have yet to be ascertained;
- (c) the Sites are not covered by any Modification of Tenancy/Building Licence;
- (d) the numbers of outstanding Small House applications and the numbers of 10-year Small House demand for the villages concerned are as follows:

<u>Villages</u>	<u>No. of the outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
Ma Mei Ha Leng Tsui	27	110
Leng Pei Tsuen	18	22

\*The figures of the 10-year Small House demand forecast were provided by the relevant Indigenous Inhabitant Representatives without any supporting evidence and his office is not in a position to verify the forecasts; and

- (e) the Small House application was made to his office on 10.12.2010.

### **2. Traffic**

Comments of the Commissioner for Transport (C for T):

- (a) she has reservation on the application. Such type of development should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such type of development outside the "V" zone, if permitted, will set undesirable precedent cases for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, the application only involve construction of eleven Small Houses. She considers that the application can be tolerated unless it is rejected on other grounds.

### **3. Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) the Site is wholly within "AGR" zone and is outside WGG;
- (b) he has no objection to the application subject to the following conditions:
  - (i) the Site for the proposed houses will be connected to the future public

sewerage system before their occupation; and

- (ii) adequate land will be reserved for the sewerage connection works;
- (c) based on the FI, it is noted that applicants proposed to connect the NTEHs (Small Houses) to the planned public sewer in the vicinity, which is currently included in the North District sewerage stage 1 phase 2C. It is anticipated to be completed by 2025 and should have sufficient capacity to cater for sewage arising from the proposed developments;
- (d) the applicants are reminded to seek DSD's views in due course on the technical feasibility of connection to the future public sewerage system when available; and
- (e) as the Site is about 5m away from the watercourse, the applicants are reminded to follow ProPECC PN 1/94 Construction Site Drainage to properly handle and dispose of site discharge during construction phase.

#### **4. Landscape**

Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) she has no objection to the application from the landscape planning perspective;
- (b) based on aerial photo of 2018, the Site is situated in an area of rural landscape character surrounded by village houses and car parks. No significant landscape resource of high sensitivity is observed within the Site. Significant adverse impact on existing landscape resources arising from the application is not anticipated; and
- (c) since there is no major public frontage along the site boundary, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

#### **5. Drainage**

Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection to the application from public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicants to submit and implement a drainage proposal for the Site that it will not cause adverse drainage impact to the adjacent area;
- (c) he has no adverse comments to the proposed replacement of septic tanks by connection with public sewer;
- (d) the applicants are advised that the Site is within the vicinity of Government Land where public sewer is proposed to be constructed in late 2020 and anticipated to be completed by end 2024;
- (e) the applicants shall further liaise with DSD to ensure that construction of the proposed development should not obstruct the future public sewerage works, and the applicants shall complete the necessary sewerage works to connect the discharge from the

proposed development to the public sewerage system in future, if any; and

- (f) should the application be approved, a condition should be included to require the applicants to submit a sewerage connection proposal for connection with public sewerage system, and implementation of connection works at their own cost according to the approved proposal.

## **6. Fire Safety**

Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application; and
- (b) the applicants are reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

## **7. Water Supply**

Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicants may need to extend the inside services to nearest suitable Government water mains for connection. The applicants should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

## **8. Agriculture**

Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) she does not support the application from the agriculture point of view;
- (b) the Site is currently fallow overgrown with grasses. The agricultural activities in the vicinity are active, and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouse, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view; and
- (c) the applicants should be reminded to perform good site practice so as not to pollute or affect the nearby watercourses.

## **9. District Officer's Comments**

Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals regarding the application. The Chairman of Fanling District Rural Committee, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Leng Pei Tsuen had no comment on the application.

## **10. Demand and Supply of Small House Site**

According to DLO/N's records, the total number of outstanding Small House applications for Ma Mei Ha Leng Tsui and Leng Pei Tsuen village cluster is 45 while the 10-year Small House demand forecast for the same village is 132. According to the latest estimate by PlanD, about 0.89 ha (equivalent to about 35 Small House sites) of land are available within the "V" zone of Lei Uk Tsuen. There is insufficient land in the "V" zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen to meet the future demand of Small Houses (i.e. about 4.43 ha of land which is equivalent to 177 Small House site).

**Recommended Advisory Clauses**

- (a) to note the comments of Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that for provision of water supply to the development, the applicants may need to extend the inside services to nearest suitable Government water mains for connection. The applicants shall resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (b) to note the comments of Director of Fire Services (D of FS) that the applicants should to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (c) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) that:
  - (i) the applicants are advised that the Site is within the vicinity of Government Land where public sewer is proposed to be constructed in late 2020 and anticipated to be completed by end 2024; and
  - (ii) the applicants shall further liaise with DSD to ensure that construction of the proposed development should not obstruct the future public sewerage works, and the applicants shall complete the necessary sewerage works to connect the discharge from the proposed development to the public sewerage system in future, if any;
- (d) to note the comments of the Director of Environmental Protection (DEP) that:
  - (i) the applicants are reminded to seek DSD's views in due course on the technical feasibility of connection to the future public sewerage system when available; and
  - (ii) as the Site is about 5m away from the watercourse, the applicants are reminded to follow ProPECC PN 1/94 Construction Site Drainage to properly handle and dispose of site discharge during construction phase;
- (e) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that the applicants should be reminded to perform good site practices so as not to pollute or affect the nearby watercourses; and
- (f) to note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicants should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.